

APPROVED Minutes of the
Employment Advisory Council
Department of Workforce Services, 140 East 300 South, Salt Lake City
April 7, 2016 – 2:30 p.m.

Council Members Present:	John Chindlund	Employer Representative, Prince, Yeates & Geldzahler
	David Davis	Employer Representative, Utah Retail Merchants Assn.
	Richard Thorn	Employer Representative, Assoc. of General Contractors
	William Nickell	Employee Representative, Utah Career Center
	Diane Lewis	Employee Representative, Utah Laborer's Local #295
	Tony Montano	Employee Representative, Utah State AFL-CIO
	Dee Rowland	Public Representative
	Jan Zogmaister	Public Representative
	Susan Johnston	Public Representative (for Erin Trenbeath-Murray)
Council Members Excused:	Greg Diven	Employer Representative, OCM, Inc.
	Todd Bingham	Employer Representative, Utah Manufacturers Assn.
	Dale M. Cox	Employee Representative, Utah State AFL-CIO
	Dan Peay	Employee Representative, United Steelworkers, AFL-CIO
	Jody McMillan	Public Representative
	Matt Minkevitch	Public Representative
DWS Staff Present:	Casey Cameron	DWS Deputy Director
	Michelle Beebe	Director, Unemployment Insurance
	Kathy Bounous	General Counsel, DWS
	Mike Miller	Chief, UI Contributions
	Kim Auberger	Manager, Re Employment Services, Unemployment Insurance
	Bethany Hyatt	Communications
	Bradley Salmond	Program Manager, Unemployment Insurance
	James Robson	Senior Economist, Department of Workforce Services
	Rachana Keo	Claims, Unemployment Insurance
Mary Gehman-Smith	Support Staff Supervisor, Unemployment Insurance, Minutes	

Agenda Item	Discussion
Welcome and Approval of Minutes	Ms. Cameron welcomed the group and called for a motion to approve the Minutes from the December 9, 2015 meeting. Motion: Dee Rowland motioned to approve the Minutes as written, Diane Lewis seconded the motion and the motion carried.
Update on UI Trust Fund & 2016 Tax Rates	<p>Ms. Beebe provided a basic recap of the UI Trust Fund (Attachment A):</p> <ul style="list-style-type: none"> • Attached are the 2016 Annual Rates for employers effective January 1, 2016. Notices were sent in December 2015. The change won't be reflected until employers file their quarterly reports this month for the period January 1 through March 30; • About 71% of Utah employers experienced a one-third decrease in liability from 2015 – 2016. Employers that did not qualify for the minimum rate are still expected to see about a 12.7% decrease. The projections for 2017 are still in the early stages and won't be finalized until after June 30, 2016; • 73% of employers in Utah qualify for the minimum rate of .002% or \$64.40 per employee. The qualification is based on their experience with unemployment. Reasons an employer may qualify for a minimum contribution rate: <ul style="list-style-type: none"> ○ They haven't experienced any layoffs in the last four years; ○ They have discharged someone for misconduct or poor attendance issues and whose benefits were denied; ○ They had an employee that quit, but for reasons they didn't contribute to, such as an employee quitting to care for an ailing parent. Benefits may be allowed, without being charged to the employer, if the individual was able and available for other work. <p>These scenarios do not indicate the employer didn't experience any turnover, just that they don't have any unemployment insurance liability.</p> <ul style="list-style-type: none"> • Mr. Davis asked how Utah stacks up against other states as far as employers qualifying for minimum rates? Ms. Beebe doesn't know right off hand. The way the rates are calculated varies state by state. Mike Miller, Chief of Contributions, stated he met with an individual representing the Consortium of Utah Employers and discussed rates. There are many different ways to calculate the rates. Most are higher than Utah's minimum. (Attachment B). • About 25% of employers have an experience rating. These are the employers who are impacted by our Reserve Factor. The way the unemployment contribution rates are calculated is to look at the Benefit Cost Ratio. The employer's liability experience for the last four years is compared to their taxable wages, multiplied by the Reserve Factor and added to the Social Cost Rate. The Benefit Cost Ratio is within the control of the employer. If they have a smaller workforce but high unemployment rate, they will have a higher ratio. If they have a high unemployment rate but a significantly large workforce, they may have a lower ratio. It takes both of these things into consideration. The Reserve Factor is based on the health of the Trust Fund. When the Trust Fund is considered healthy, then the Reserve Factor is lower. As the Trust Fund becomes less robust, the Reserve Factor increases;

	<ul style="list-style-type: none"> ○ For 2017, a Reserve Factor of .90 is projected; ○ This will be finalized in November. We expect 25% of employers to see a decreased rate. Additionally, they will see a decrease due to declining benefit levels. The Benefit Cost Ratio number will decrease; ○ The formula (how the Reserve Factor is set, how the Benefit Cost Ratio is calculated, and the fact that the Benefit Cost Ratio goes to the fourth decimal point) is defined in statute. <ul style="list-style-type: none"> ● The primary driver of how the Social Cost Rate is set is that we look at Benefit Costs which cannot be attributed to a particular employer. Going back to that scenario where an individual quits for family reasons, but otherwise meets eligibility requirements for benefits: <ul style="list-style-type: none"> ○ If the employer is relieved of any charges they didn't have direct control of, those benefits have to be paid somehow, and may go into the Social Cost Rate calculation. These costs have ranged anywhere from \$190M to \$442M over a four year period. If an employer has gone out of business, they can't be held liable for the benefit costs; ○ For 2016, the Social Cost Rate is .002, the Taxable Wage Base is \$32,200 and the Max UI Liability for Employer Qualifying for the Minimum Rate is \$64.40. The Taxable wage base equals 75% of the average fiscal wage. Since 2012, the taxable wage base has increased between 1.6% and 2.9% each year. We are anticipating in 2017, the maximum liability for an employer qualifying for the minimum rate will increase by about \$1 - \$2 per employee. ● Many say we are due for a recession based on the length of time since the last one. Our expectation is that Utah itself is not at risk, though could be impacted by events on the national level. <p>Ms. Beebe referred to the UI Trust Fund Balance Projections which indicates the minimum and maximum reserve levels. We want to identify how much should be in the Trust Fund if we were to experience another recession. If the economy had a downswing and UI didn't collect any more contributions, how much would it take to pay 18-24 months of benefits. We expect to reach the maximum adequate reserve in 2017.</p> <ul style="list-style-type: none"> ○ In 2008, this Council helped pass legislation that broadened the minimum and maximum adequate reserve. In 2008, it was increased to 18-24 months. The hope by broadening is that there would be less volatility in tax rates. Speculation is that because we were able to make this change, Utah is one of 15 states that remained solvent during the Great Recession. From 2011-2013, the Utah average plateaued. During this time, Legislation was passed to cap the maximum rate for employers to try to mitigate the impact to employers. Jan Zogmaister asked how much did we know in advance? Mr. Davis stated we saw difficult times on the horizon, looking ahead and good timing. He added the difficult process of the legislative process has prevented us from jumping back and forth.
2016 Legislative Summary	<p>Ms. Bounous summarized the 2016 Legislative Session that impacts Unemployment Insurance:</p> <ul style="list-style-type: none"> ● HB116 Determination of Employer Status Amendments, Sponsored by Representative Green: <ul style="list-style-type: none"> ○ This addresses when a franchisor is considered an employer. In UI, there are two different factors we look at when

	<p>determining whether someone has an employment relationship with an employer or if they are an independent contractor. We built into his bill, the ability to still make the determination based on the direction and control the franchisee puts on the franchisor.</p> <ul style="list-style-type: none"> • SB148 Workforce Services Revisions, Sponsored by Senator Weiler: <ul style="list-style-type: none"> ○ This bill brought WIA into compliance with the new WIOA, made the name change from the State Council on Workforce Services to the State Workforce Development Board, changed the make-up of the Board, and, specific to UI information disclosure statute, changed the reference from WIA to WIOA; • HB325 Office of Rehabilitation Services Amendments: <ul style="list-style-type: none"> ○ Moves the Utah State Office of Rehabilitation (USOR) to the Department of Workforce Services. USOR will be a Division within Workforce Services; • SB135 Administrative Law Judge (ALJ) Amendments, Sponsored by Senator Harper: <ul style="list-style-type: none"> ○ This bill requires if we hire an ALJ, a hiring panel must be used including the Executive Director of DHRM, Executive Director of the Hiring Agency and the Executive Director of another agency (or designee). This is intended to remove any potential bias. The hiring panel reviews the applications, and recommends the top three candidates. It also requires procedural fairness training to the ALJs on a three year cycle. <ul style="list-style-type: none"> ▪ Mr. Montano asked if there was a fiscal note attached to this bill? No fiscal note. Mr. Davis wonders if Senator Harper is expected to continue to run this type of bill in the future. • HB37 Worker Classification Coordinated Enforcement, Sponsored by Representative Peterson: <ul style="list-style-type: none"> ○ This removes the Worker Classification Coordinated Enforcement Act from the Legislative Oversight and Sunset Act.
Update on Previous Initiatives	<p>Ms. Beebe provided an update on the CUBS Modernization Project:</p> <ul style="list-style-type: none"> ○ CUBS (Comprehensive Unemployment Benefit System) was originally built on a Versata platform. When the company announced they were raising their maintenance costs 502 percent, a decision was made to rewrite it into a .net environment, in order to avoid these maintenance costs. The project is being approached module by module; ○ In 2010, UI was awarded \$23M in Modernization Funds. These funds were deposited into the Trust Fund. Now that we are through the recession, we have been looking at ways to spend the money. It can either be used to pay benefits with no Legislative action or it can be appropriated by the Utah State Legislature to be used for UI Modernization efforts; ○ During the 2015 General session, we asked for \$2M to help pay for the benefits system upgrade; ○ At the most recent session, we asked for \$1.6M for this fiscal year and \$4M for FY2017. As of three weeks ago, three of our six major units are operating in the new environment. The overall conversion should be complete by June 2018.
Debt Collection Info	<ul style="list-style-type: none"> • See Attachment C
Information Sharing with DOL	<ul style="list-style-type: none"> • HB 65 passed in the 2016 General Session and the statute was passed in May 2015. The U.S. Department of Labor (DOL) Wage and Hour Division is responsible for enforcing the Fair Labor Standards Act (FLSA). They approached DWS and asked for access to our audit findings of Misclassified Workers. If employers are not complying with unemployment insurance, they are likely not

	<p>complying with FLSA. The final compromise is that we would only share aggregate information and only if employers don't cure the misclassification within 90 days;</p> <ul style="list-style-type: none"> • The MOU has not been finalized, therefore no information has been shared to date. Once the MOU is finalized, Ms. Beebe will share with the Council. Mr. Davis stated the Legislative concern was sharing with the Federal Government.
Workforce Innovation and Opportunity Act (WIOA)	<ul style="list-style-type: none"> • WIOA is designed to meet the needs of the customers. Three aspects that impact UI. 1. Focus on re-employment (UI is a mandatory partner); 2. Meaningful Assistance for individuals filing an unemployment claim, and; 3. Information sharing to assess performance outcomes. The State Workforce Development Board recently published a 162-page Plan which is available on our website at https://jobs.utah.gov/wioa/ ; • UI's number one goal is to focus on Re employment , providing temporary assistance while individuals look for work <ul style="list-style-type: none"> ○ UI is currently running a behavioral economics pilot on 50 claimants who are given the opportunity to write their own re employment plan; ○ UI is currently in the process of drafting a contract with LinkedIn where a select number of individuals would be provided free access to their premium services to evaluate the effectiveness of a network-based job search. They would still be responsible for the normal work search contacts; • Second is Meaningful Assistance – when an individual goes into an EC, generally they will be referred to the DWS website or they can call into the Claim Center. We want to ensure these customer service pathways are accessible and that EC workers have a direct line to the UI HelpDesk; • The third aspect is sharing of Wage Records.
Other Department Initiatives	Ms. Cameron referred to a Press Release, jointly with DWS and the Veterans (Attachment D)
Next Meeting	The next two meetings are scheduled for August 11, 2016 at 2:30 p.m. and December 1, 2016 at 2:30 p.m., respectively.
Adjourn	Mr. Davis motioned to adjourn, Mr. Montano seconded the motion and the motion carried. The meeting adjourned at 3:42 p.m.